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Public Testimony Montana Tech---April 23, 2019

For the record, I am Fritz Daily, a concerned citizen and I am a member of Silver Bow Creek Headwaters Coalition.

I offered testimony at the April 23rd. public hearing and I have also submitted written testimony to my strong opposition to the proposed Record of Decision Amendment being proposed by the EPA, State of Montana the Butte Silver Bow Local Government and Arco/BP.

I would like to reiterate a few things I stated at the last meeting for the benefit of those who may not have been here last time.

For the record let me just say that the proposed Record of Decision Amendment on Butte Priority Soils is a bad decision, the Agreement in Principle was a bad decision and the 2006 Record of Decision was a bad decision!

They were all based on totally false and inaccurate information and the new proposed Amendment is a bad decision still based on totally false and inaccurate information.

Once again, I believe, the Butte Silver Bow Local Government, the EPA and the State of Montana have totally failed the community of Butte and the entire Clark Fork and Columbia River Basins by not providing the quality Superfund cleanup and restoration of Butte Priority Soils, the Berkeley Pit and the Montana Pole site that we are guaranteed under Superfund and State Laws and the Montana Constitution.

For the record--- Silver Bow Creek from Texas Ave to Montana Street is a Creek and a watercourse and not a sewer, a storm drain or a “water feature”! Judge Brad Newman confirmed this in his decision in the successful Silver Bow Creek Headwaters Coalition Lawsuit against the State of Montana!

The “stakeholders” in this critical decision are not the EPA/State representatives, the Atlantic Richfield British Petroleum Company and the contractors as claimed by the EPA here tonight. The true stakeholders are the folks from Butte and the Clark Fork and Columbia River Basins and most importantly the future of our great town---our kids and grandkids!

There is absolutely no question under Superfund and State Laws and the Montana Constitution that the Atlantic Richfield Company now British Petroleum Company is totally responsible for the cleanup.

They made the decision to close the Butte Mines, to close the Anaconda Smelter, to close the Berkeley Pit, shut off the underground pumps in the Kelley Mine that caused the Berkeley Pit and Butte mine flooding, and finally they closed the East Continental Pit that ended mining in Butte as was known for 100 years.

I find it unconscionable that the Local government, the State and the EPA have not demanded that Butte receive the quality cleanup and restoration that we are guaranteed under Superfund and state Law and the Montana Constitution.

I believe the cleanup and restoration of Silver Bow Creek, the Butte Hill, the Montana Pole Site, and the cleanup and restoration of the Berkeley Pit are the most important issues facing this community. I believe if we do not get a responsible resolution to these issues this community is going to fail. Environmentally, Economically and Socially.

As I stated at the last meeting and wrote in my comments to the EPA---I believe it is totally wrong for Arco/BP to be taken off the hook for the cleanup of the portion of the Silver Bow Creek Corridor from the Headwaters at the Parrot Tailings area at Texas Avenue to Casey Street.

I believe it is totally wrong that we as a community are now being told if we do not accept the inferior cleanup and restoration now being proposed by the agencies and Arco/BP that we are going to get a worse inferior cleanup, by using Unilateral Orders.

Lowering the discharge standards to the Creek to allow for a discharge of contaminated storm water and Berkeley Pit Water that must be discharged to Silver Bow Creek, in perpetuity, is even more unbelievable and is a direct violation of Superfund/state laws and the Montana Constitution!

Not restoring Butte's portion of Silver Bow Crick to a quality creek where children can fish and play is unconscionable and an irresponsible decision! The decision is the final decision for the Butte Superfund area and it along with the Berkeley Pit and Montana Pole decisions will have forever-negative environmental, economic and social consequences for Butte Montana!

And yes we can have a real creek flowing through our town connected to the groundwater, as required of a Creek. You absolutely can! As Judge Newman Ordered in the successful Silver Bow Creek Headwaters Coalition Lawsuit, Silver Bow Creek from Texas Avenue to Montana Street is a Creek and protected in the Montana Constitution as Waters of the State of Montana.

This is where Chris Wardell cut me off and would not allow me to continue!

I gave some comments at the first Restore Our Creek Meeting and they put my thoughts into my perspective on the issue. I said at the meeting--- “I find it unbelievable and unconscionable that the State of Montana and the Environmental Protection Agency have determined that it is environmentally practical and achievable to require the Atlantic Richfield/British Petroleum Company to spend \$100+ million dollars to remove the Milltown Dam, Have spent \$151 to clean Silver Bow Creek from below Interstate 90 to the Warm Springs Ponds, and negotiated a \$100+ million “buy out” to clean the Clark Fork River. Yet they find it unachievable and acceptable to not responsibly clean and restore Silver Bow Creek flowing through Butte, where the contaminants came from at the Headwaters and source of the entire problem.”

In yesterday's Montana Standard, there is an article about a quality Park in Missoula where the children can play and fish and the adults of the community can enjoy the amenities of the cleanup and restoration of the Mill Town Dam Area as well. As I wrote yesterday in the Montana Standard in Butte we are still begging to get a responsible cleanup and restoration of the town. How frigging crazy is that!

The most important issue I always stress in my presentations and in my writing and meeting with EPA, State and Local folks is the importance of Butte Montana in the shaping and creating of this great nation. As I always say---Butte Montana is without question one of the most important cities in the shaping and creating of this great nation, Ore mined on the Butte Hill was used to create the electrical and communication systems throughout the United States and most importantly it was used to build the material necessary to defend this country during times of war. We have paid our dues! If it were not for Butte and Anaconda Montana we may be having this discussion in Japanese or German.

Let me close by stating what I have stated probably a hundred times in the process---once again the issues that I feel are critical in making this final decision on the cleanup and restoration of Butte Montana;

Everyone involved including the agencies and Arco/Bp knows using proper science that is now available because of research by the Butte Natural Resource Damage Council, that was not available prior to the 2006 Record of Decision, what needs to be accomplished to have a responsible cleanup of Butte's Silver Bow Creek under Superfund law, State Law and the Montana Constitution. No more deals, no more "band aids! Let's do what is right.

As I told Administrator Wheeler, Doug Benevento, Senator Daines and Attorney General Tim Fox---The question I am asked most often is why has Butte not received the cleanup and restoration that the community is guaranteed under Superfund and State law and the Montana Constitution and most importantly why did they start the cleanup of Silver Bow Creek in the middle and not at the headwaters in Butte where the damage originated?

My answer is always the same---Number one it is the incompetence of the agencies and the local government and number two is the anti Butte mentality that is so prevalent within the State and EPA.

Sadly I have come to the conclusion that the only way Butte is ever going to receive the quality cleanup and restoration we are guaranteed is through a lawsuit, or heaven forbid a catastrophe that I believe is inevitable if the proposed Record of Decision Amendment is adopted.

I encourage the Council of Commissioners to become more pro actively involved and file that lawsuit on behalf of the residents and the children of Butte.

Finally, As I wrote in yesterday's Montana Standard---I am not the enemy as some believe. I just care and want to make Butte a better and more environmentally safe place to live!